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Second report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013)

I. Introduction

1. The present report is submitted pursuant to paragraph 4 of Security Council resolution 2107 (2013) and covers developments pertaining to the search for missing Kuwaiti and third-country nationals and missing Kuwaiti property, including its national archives, since the issuance of my previous report, dated 11 November 2013 (S/2013/654).

2. The reporting period witnessed deepening ties between Iraq and Kuwait. On 15 and 16 December, Iraq and Kuwait took part in the third meeting of the Joint Ministerial Committee, held in Kuwait. Agreements on the protection of investment and on tourism were signed. On 18 December, I met with the Permanent Representatives of Iraq and Kuwait to the United Nations, who submitted the bilateral agreement on joint administration of navigation in the Khor Abdallah waterway, for registration as a treaty in accordance with Article 102 of the Charter of the United Nations. In another positive development, on 19 February, the Government of Iraq informed me that it had distributed approximately $1.4 million to compensate eligible beneficiaries, pursuant to the agreement between the Government of Iraq and the United Nations, signed in Baghdad on 26 May 2013, and to Security Council resolution 899 (1994). From 13 to 15 January, I visited Iraq and Kuwait and, in my discussions with the leadership of the countries, appreciated the significant gains made in strengthening their relations.

II. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals, or their remains

3. With a view to carrying out his responsibilities under resolution 2107 (2013), my Deputy Special Representative for Political Affairs at the United Nations Assistance Mission for Iraq (UNAMI) held meetings with relevant Iraqi interlocutors, including the Minister for Human Rights, Mohammed Shia al-Sudani; his deputy and head of the Iraqi delegation to the Technical Subcommittee of the Tripartite Commission, Arkan Saleh; the Ambassador in the Ministry of Foreign Affairs of Iraq with responsibility for Iraq-Kuwait issues, Mohammed Hamoud; and Ambassador Walid Shiltagh, who heads the Iraqi interministerial committee on missing Kuwaiti property. In Baghdad, he also met with the Ambassador of Kuwait,

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representatives of the delegation of the International Committee of the Red Cross (ICRC) and members of the diplomatic corps.

4. My Deputy Special Representative represented UNAMI in an observer capacity at the meetings of the Iraqi interministerial committee for missing Kuwaiti nationals, which convened three times, on 13 November and 4 December 2013, and 21 January 2014, under the auspices of the Ministry of Human Rights. The interministerial committee reviewed progress in accessing, interviewing and analysing information from witnesses and informants and considered steps to encourage informants to identify burial sites.

5. Iraqi interlocutors assured my Deputy Special Representative of the continued commitment of Iraq to addressing the issues of missing Kuwaiti and third-country nationals and missing Kuwaiti property, including its national archives. They indicated, however, that there were challenges to that end. With the passage of time, reliable witnesses have either passed away, live in third countries or wish to disassociate themselves from their past. Reliable and quality information has become difficult to obtain, thus increasing dependency on second-hand and often inaccurate information. Iraqi interlocutors emphasized that, despite those challenges, they looked forward to suggestions from UNAMI so that their efforts could yield results. They welcomed the intention of UNAMI to seek observer status in the Tripartite Commission and its Technical Subcommittee. My Deputy Special Representative emphasized the readiness of UNAMI to advise and support the relevant Iraqi ministries in developing a comprehensive road map and innovative methods.

6. On 25 November, my Deputy Special Representative wrote to the Head of Operations for the Near and Middle East of ICRC and the Chair of the Tripartite Commission and its Technical Subcommittee, requesting to facilitate granting UNAMI observer status in the Commission and its Subcommittee. On 15 January, the delegation of ICRC in Baghdad advised my Deputy Special Representative that a consensus could not be reached between the members of the Tripartite Commission on UNAMI observer status. The Technical Subcommittee met on 20 November and 28 January, and the Tripartite Commission met on 30 January. All meetings were held in Kuwait.

7. On 1 and 2 December, my Deputy Special Representative visited Kuwait, where he met with the Advisor to His Highness the Emir, Mohammad Abdullah Abulhasan; the Director of the Coordination and Follow-up Department of the Ministry of Foreign Affairs, Khalid Mohammed al-Maqamis; and the Director of the International Organizations Department of the Ministry of Foreign Affairs, Jasem al-Mubaraki, in addition to members of the National Committee for Missing Persons and Prisoners of War Affairs. He also held meetings with the ambassadors of France, Iraq and the United States of America, the Head of the Political Section of the Embassy of the United Kingdom of Great Britain and Northern Ireland, and the head of the regional delegation of ICRC.

8. Kuwaiti officials welcomed my first report (S/2013/654) and appreciated efforts by UNAMI. They emphasized that the humanitarian nature of the file of missing persons required exploration and the use of means that could bring progress, including persistent work with witnesses. They wished that UNAMI could visit Kuwait more regularly, intensify contacts with the Kuwaiti side and bring a new momentum to the dossier. They asked UNAMI to support relevant Iraqi ministries in developing a road map and to continue to encourage Iraqi officials to

carry out their commitments. The members of the National Committee for Missing Persons and Prisoners of War Affairs reiterated their reservations with regard to UNAMI becoming an observer in the Tripartite Commission and its Technical Subcommittee.

9. From 14 to 17 December, a specialized team from the Ministry of Human Rights carried out an exploratory mission in the Qaradagh area of the Sulaymaniyah Governorate. The Ministry continued to search for a map of the "fighting school", where alleged executions of prisoners of war took place, and plans to carry out further exploration in the area. From 3 to 9 January, a specialized team from the Ministry of Human Rights dug 80 trenches along the road between Muthanna and al-Salman. Additionally, as requested by Kuwait, 25 test trenches were dug close to the location of former sites where remains were found in 2003 and 2004. From 2 to 4 February, a specialized team from the Ministry of Human Rights of Iraq undertook an exploratory mission to locate a fourth site in the al-Tamur area in Karbala Governorate and collect coordinates based on the information provided by a witness. Excavations were carried out for several years at three sites where remains had been found earlier. Nevertheless, all such efforts are yet to produce results. Plans for excavations in the Salman Pak area in Baghdad Governorate continue to be hindered by security concerns.

10. During the reporting period, the Kuwaiti National Committee for Missing Persons and Prisoners of War Affairs used the genetic materials received from Iraq in September 2013 from an excavation in Muthanna Governorate to verify DNA profiles in the missing persons database. The results yielded no positive match. On 28 January, the Ministry of Human Rights shared with the Kuwaiti National Committee for Missing Persons and Prisoners of War Affairs another set of genetic materials from the same site. Again, the analysis yielded no positive match.

III. Recent activities with regard to the return of Kuwaiti property

11. On 28 November, my Deputy Special Representative attended in Baghdad a meeting of the interministerial committee on missing Kuwaiti property, including national archives. Members of the committee, including the General Secretariat of the Council of Ministers, the Ministries of the Interior, Defence, Justice, Higher Education, Finance, Tourism and Antiquities, and the Central Bank, provided an update on their efforts to locate missing Kuwaiti property. My Deputy Special Representative suggested searching the archives of the various ministries, given that the Kuwaiti national archives might have been disaggregated and stored in the archives of individual ministries.

12. During the visit of my Deputy Special Representative to Kuwait on 1 and 2 December, Kuwaiti officials expressed deep disappointment and concern that there had been no progress in the search for missing Kuwaiti property, including its national archives, despite Iraqi announcements of rewards. While they appreciated Iraqi efforts to find missing Kuwaiti property, they observed that the items found and returned so far were of no significant sentimental or historical value. They stressed that the archives had been looted in an organized fashion, which might help the efforts to break the long impasse on the issue.

13. On 5 December, the General Secretariat of the Council of Ministers instructed State institutions to forward to the Iraqi interministerial committee on missing Kuwaiti property any items that had been found and/or any relevant information. Similar instructions were last issued in January 2012.

14. The Ministry of Foreign Affairs found two paintings with the seal of Kuwait, and asked Kuwait in December for assistance in ascertaining their authenticity and ownership. On 13 January, the Ministry of Foreign Affairs of Kuwait responded that the paintings had to be examined by the Kuwaiti National Council for Culture and Arts.

15. As regards recent findings, the Ministry of Higher Education and Scientific Research has collected 100,000 books and scientific journals and 500 theses. Similarly, the Ministry of Tourism and Antiquities has found 247 books, one copper plate, a painting and publications, and the Ministry of Culture has claimed it is in possession of a number of books and publications. UNAMI has proposed that the items be handed over to Kuwait when the two committees on missing property meet. In that regard, my Deputy Special Representative urged his Iraqi and Kuwaiti interlocutors to convene a joint meeting of their committees, as they have not met since their first and only meeting in Kuwait on 15 May 2013. Iraqi interlocutors said they wished to host the next meeting in Baghdad.

IV. Observations

16. The issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains, and the return of Kuwaiti property, including the national archives, is now under Chapter VI of the Charter of the United Nations. My Deputy Special Representative and UNAMI as a whole have been carrying out all necessary activities to promote, support and facilitate Iraqi efforts.

17. I realize that Iraq is aware of its obligations under Security Council resolution 2107 (2013) and is determined to live up to expectations. Nevertheless, despite the enabling climate of cooperation between the two countries, no Kuwaiti remains have been found since 2004. It is certainly regrettable as, with the passage of time, the technical and practical difficulties of finding mortal remains increase. Obtaining precise information that can facilitate the search, as well as tracing, reaching out to and securing the cooperation of reliable witnesses, become a challenge. I urge Iraqi authorities to redouble their efforts and to explore all possible incentives to persuade witnesses and informants to come forward.

18. Since their inception, the Tripartite Commission and its Technical Subcommittee have been helpful in addressing the issue of missing Kuwaiti and third-country nationals. The steering role of the International Committee of the Red Cross has been indispensable and praiseworthy. UNAMI has been invested with a substantial and serious mandate. I trust that all stakeholders will embrace UNAMI as a full partner for it to play a meaningful role in this humanitarian endeavour.

19. It is disappointing that no tangible progress has also been achieved with respect to the Kuwaiti national archives. I urge the Government of Iraq to bring innovative methods to their search. UNAMI stands ready to assist. I am pleased that the Iraqi interministerial committee has been convening to coordinate the search for missing Kuwaiti property, including its national archives. I also call on both the Iraqi and Kuwaiti committees on property to work closely and meet together on a regular basis.